



[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 11-128-LNG]

Dominion Cove Point LNG, LP; Application to Export Domestic Liquefied Natural Gas to Non-Free Trade Agreement Nations

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on October 3, 2011, by Dominion Cove Point LNG, LP (DCP), requesting long-term, multi-contract authorization to export up to 7.82 million metric tons per year of domestically produced liquefied natural gas (LNG) (equivalent to approximately 365 billion cubic feet [Bcf] per year of natural gas¹) for a 25-year period, commencing the earlier of the date of first export or six years from the date of issuance of the requested authorization. DCP seeks authorization to export LNG from the Cove Point LNG Terminal, owned by DCP, in Calvert County, Maryland, to any country (1) with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, (2) which has or in the future develops the capacity to import LNG via ocean-going carrier, and (3) with which trade is not prohibited by U.S. law or policy. DCP is requesting this authorization to act as an agent for others who hold title to the LNG pursuant to long-term contractual agreements with the other parties. The Application was filed under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

¹ DCP states that 7.82 million metric tons per annum is equivalent to approximately 1 Bcf per day of natural gas.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the **Public Comment Procedures** section no later than 4:30 p.m., eastern time, **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Responses to Pending Motions described in the **SUPPLEMENTARY INFORMATION** section of this notice, must be filed no later than 4:30 p.m., eastern time, **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES:

Electronic Filing on the Federal eRulemaking Portal under FE Docket No. 11-128-LNG:
<http://www.regulations.gov>

Electronic Filing by email:
fergas@hq.doe.gov

Regular Mail

U.S. Department of Energy (FE-34)
Office of Natural Gas Regulatory Activities
Office of Fossil Energy
P.O. Box 44375
Washington, DC 20026-4375

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE-34)
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SUPPLEMENTARY INFORMATION:

Background

DCP is a Delaware limited partnership with its principal place of business in Lusby, Maryland, and offices in Richmond, Virginia. DCP is a subsidiary of Dominion Resources, Inc. (DRI), a producer and transporter of energy. DRI is a Virginia corporation with its principal place of business in Richmond, Virginia.

DCP owns the Cove Point LNG Terminal (Terminal), as well as the 88-mile Cove Point Pipeline connecting the Terminal to the interstate pipeline grid. The construction and operation of the Terminal was initially authorized in 1972 as part of a project to import LNG from Algeria and transport natural gas to U.S. markets. Shipments of LNG to the Terminal began in March 1978, but ceased in December 1980. In 2001, the Federal Energy Regulatory Commission (FERC) authorized the reactivation of the Terminal and the construction of new facilities to receive imports of LNG. In 2006, the FERC authorized the Cove Point Expansion project, which nearly doubled the size of the Terminal, expanded the capacity of the Cove Point Pipeline, and provided for new downstream pipeline and storage facilities. In 2009, the FERC authorized DCP to upgrade, modify,

and expand its existing off-shore pier at the Terminal to accommodate the docking of larger LNG vessels.

The Terminal currently has peak daily send-out capacity of 1.8 Bcf and on-site LNG storage capacity of the equivalent of 14.6 Bcf of natural gas (678,900 cubic meters of LNG). DCP's 88-mile Cove Point Pipeline, which has firm transportation capacity of 1.8 Bcf, connects the Terminal to the major Mid-Atlantic gas transmission system of Transcontinental Gas Pipe Line Company, LLC, Columbia Gas Transmission, LLC, and Dominion Transmission, Inc., an interstate gas transmission business unit of DRI.

DCP plans to develop, own, and operate facilities at the Terminal to liquefy domestically produced natural gas and to load the resulting LNG onto tankers for export to foreign markets. DCP anticipates placing its liquefaction project in service by the end of 2016. Following the approval and construction of the liquefaction and export facilities, DCP intends that the Cove Point LNG Terminal will be operated as a bi-directional facility with capability to both import and export LNG.

Related Applications and Authorizations

This Application is the second part of a two-phased authorization sought by DCP to export domestically produced natural gas as LNG from the Cove Point LNG Terminal. On October 7, 2011, in DOE/FE Order No. 3019 (Docket No. 11-115-LNG), FE granted DCP authorization to export domestically produced LNG up to the equivalent of 1 Bcf/day of natural gas from the Cove Point LNG Terminal for a 25-year term, beginning on the earlier date of first export or October 7, 2017, pursuant to one or more long-term contracts that do not exceed the term of the authorization. That authorization provides that LNG may be exported to Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua,

Oman, Peru, and Singapore, and to any nation with which the United States subsequently enters into a FTA requiring national treatment for trade in natural gas, provided that the destination nation has the capacity to import LNG via ocean going vessels. The requested export volume in that order is identical to the export volume in the current Application of 7.82 million metric tons of LNG per year, equivalent to 365 Bcf/year, or 1 Bcf/day of natural gas. The Cove Point liquefaction facilities would be limited to exports of up to the equivalent of 365 Bcf/year of natural gas, including both exports to FTA and non-FTA countries.

On August 8, 2011, in Docket No. 11-98-LNG, DCP also submitted an application to FE requesting a two year blanket authorization to export from the Terminal LNG that previously had been imported into the United States from foreign sources in an amount up to the equivalent of 150 Bcf of natural gas. The application sought authorization to export this LNG to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. A notice of that application was published in the Federal Register on September 21, 2011, (76 FR 58489), and public comments were due by October 21, 2011. The application in Docket No. 11-98-LNG currently is under review by FE.

Current Application

In the instant Application, DCP seeks long-term, multi-contract authorization to export up to 7.82 million metric tons of domestically produced LNG annually from the Terminal, equivalent to approximately 365 Bcf/year of natural gas for a 25-year period, commencing the earlier of the date of first export or six years from the date the authorization is issued. DCP seeks authorization to export domestically-produced LNG to countries with which the United States does not have an FTA and with which trade is not prohibited by U.S. law or policy. DCP is requesting this authorization to act as agent on behalf of other entities who themselves hold title to the LNG.

DCP states that its liquefaction project will be integrated with existing facilities at its Terminal. Existing facilities that may be used include the off-shore pier (with two berths), insulated LNG and gas piping from the pier to the on-shore Terminal and within the Terminal facility, the seven LNG storage tanks, on-site power generation, and control systems. In addition, DCP states that it will construct new facilities to liquefy the natural gas delivered to the Terminal through the Cove Point Pipeline. The new liquefaction facilities would be located on land already owned by DCP. DCP states that it is currently engaged in Preliminary Front End Engineering Design (“Pre-FEED”) studies for its liquefaction project and is in the process of conducting commercial negotiations with potential customers. Based on the outcome of the pre-FEED studies, DCP anticipates constructing one to three liquefaction trains, allowing the export of the equivalent of up to 365 Bcf/year, for an average of 1 Bcf/d.

DCP states that customers will be responsible for procuring their own gas supplies and holding title to the gas that they will deliver to DCP for liquefaction as well as the LNG to be exported from the Terminal. DCP states that customers may enter into long-term gas supply contracts or procure spot supplies in the very large and liquid U.S. gas market. The gas will be delivered to DCP from the interstate pipeline grid, thereby allowing gas to be sourced from a wide variety of regions. DCP states that the DTI pipeline system provides direct access to Appalachian (including Marcellus Shale) supply as well as connections to supplies from the Gulf of Mexico area, the mid-continent, the Rockies and Canada. DCP states that DTI also operates the largest underground natural gas storage system in the country, as well as a trading hub: Dominion South Point.

DCP anticipates entering into one or more long-term contractual agreements of approximately twenty years to provide natural gas liquefaction and LNG export services. DCP

plans to enter into those contracts on a date that is closer to the date of first export. DCP anticipates that these contracts will allow DCP to provide its customers with options for liquefying natural gas and loading it onto LNG tankers at the Terminal for export or for importing LNG at the Terminal for vaporization and send-out as regasified LNG into the domestic market. DCP states that it will file under seal with DOE/FE any relevant long-term commercial agreements that it enters into with LNG title holders on whose behalf the exports will be performed, once the agreements are executed.

DCP states that it does not intend to hold title to the LNG itself, and is requesting authorization to act as agent on behalf of other entities who themselves hold title to the LNG. DCP states that it will register each such LNG title holder with DOE/FE consistent with registration requirements previously adopted in DOE/FE Order 2986, issued July 19, 2011, which granted blanket export authorization to Freeport LNG Development, L.P.

DCP requests that, consistent with prior orders issued by DOE/FE, the authorization requested here should be conditioned on DCP's receipt of all necessary FERC authorizations of the facilities needed for the export of LNG. Lastly, with regard to this Application, DCP urges DOE to make clear its policy on future modifications to any LNG export authorization, so that investments in these projects can be made with greater certainty.

Public Interest Considerations

In support of its Application, DCP states that Section 3(a) of the Natural Gas Act (NGA) sets forth the statutory standard for review of this Application and that Section 3(a) of the NGA creates a rebuttable presumption that proposed exports of natural gas are in the public interest. DCP states that DOE has explained that opponents of an export application must make an affirmative showing of inconsistency with the public interest in order to overcome the rebuttable

presumption favoring export applications. DCP also states that DOE has repeatedly reaffirmed the continued applicability of its policy guidelines and has held that they apply equally to export applications though originally written to apply to imports. DCP contends that based on the standard of evaluation implemented by DOE, the granting of their request to export LNG will be consistent with, and will advance, the public interest.

DCP states in support of its Application, that it commissioned and submitted three studies by independent consultants: two by Navigant Consulting, Inc., and one study by ICF International. Based on these studies, DCP believes its project is in the public interest for the following reasons:

First, DCP contends that sufficient reserves now exist to satisfy domestic demand as well as the proposed LNG exports. DCP notes that the recent phenomenon of domestic shale gas has increased gas reserves and, consequently, gas production levels are projected to continue to grow steadily. In particular, DCP points to the Marcellus Shale formation, which, based on initial production, allegedly dwarfs the amount of LNG that DCP proposes to export.

Second, based on a sector-by-sector outlook for gas demand, DCP contends that LNG exports from the United States have the potential to provide a steady, reliable baseload market that will underpin on-going supply development, and help to keep domestic gas prices stable. DCP maintains that the studies conclude that given the level of North American gas reserves compared to any reasonable expectation of demand, domestic consumers will not be exposed to overseas LNG prices. DCP also contends it is very unlikely that the projected levels of LNG exports will increase the need for significant amounts of imported LNG.

Third, based on an analysis of supply reserves and demand, including the proposed gas exports, DCP maintains that current gas reserves are more than sufficient to support all expected demand at least through 2040, and that there is no “domestic need” for the gas that DCP seeks

authority to export. DCP also contends that the proposed exports will not pose any possible threat to the security of domestic natural gas supplies.

Fourth, based on a series of four pricing model scenarios, DCP states that even with very conservative assumptions, LNG exports from the Terminal will have no more than a very modest impact on domestic gas prices. The Navigant Study, *North American Gas System Model to 2040*, submitted with the Application, reflects Henry Hub price increases of 4% to 6% in the 2020 to 2040 period, compared to a reference case. See page 5 of the Navigant Study.

Fifth, DCP states that the export of domestically produced LNG will provide the following economic benefits, as detailed in the ICF Consulting Study (Appendix C of the Application):

A. An improvement in the U.S. balance of trade of \$2.8 billion to nearly \$7.1 billion per year, equal to 0.6 to 1.4 percent of the trade deficit, based on the expected value of the exports.

B. Creation of about 16,450 new jobs created during the 2011 through 2040 period.

C. Value added GDP contributions related to the Cove Point LNG exports that would total about \$1.6 billion annually, plus additional government taxes and royalties of approximately \$850 million annually.

D. The creation of about 1,250 temporary construction jobs annually during the construction of the facilities needed for the export operations, resulting in about \$120 million in annual value added GDP contributions, and about \$27 million in annual government tax revenues.

E. Environmental benefits associated with the LNG export project resulting from the fact that the planned exports of LNG will result in the substitution of natural gas for coal and fuel oil in other countries, thereby reducing global greenhouse gas emissions significantly over the requested 25-year export term.

Further details can be found in the Application, which has been posted at

<http://www.fe.doe.gov/programs/gasregulation/index.html>.

Environmental Impact

DCP notes that in order to accommodate the proposed export activities, construction of new facilities at the Cove Point LNG Terminal will be required. DCP states that the facilities will be designed to minimize or mitigate any environmental or other adverse impacts. DCP further states that approval of the Application would not constitute a federal action significantly affecting the human environment under the National Environmental Policy Act (NEPA).²

DCP states that once it has further developed its plans concerning the facilities to be constructed for the project, it will request permission to commence the FERC's mandatory pre-filing process under NEPA and subsequently file an application for the necessary FERC authorization for the construction and operation of the facilities to liquefy and export gas. DCP acknowledges that the requested authorization to be issued by DOE/FE would not take effect until FERC has completed its NEPA review and has granted DCP authorization for the export of domestic LNG from the Cove Point facility. DCP requests that DOE/FE issue a conditional order authorizing the export of domestic LNG from the Terminal conditioned on completion of the environmental review and subsequent authorization by FERC.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00-002.00L (April 29, 2011) and DOE Redelelegation Order No. 00-002.04E (April 29, 2011). In reviewing this LNG export Application, DOE will consider any issues required by law or policy. To the extent determined to be relevant or appropriate, these issues will include the impact of LNG exports associated with this Application,

² 42 U.S.C. § 4321 *et seq.*

and the cumulative impact of any other application(s) previously approved, on domestic need for the gas proposed for export, adequacy of domestic natural gas supply, U.S. energy security, and any other issues, including the impact on the U.S. economy (GDP), consumers, and industry, job creation, U.S. balance of trade, international considerations, and whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. In addition, DOE/FE notes that the Application uses the term "reserves" when citing the quantity of resources in some instances. This may have an impact on some of the conclusions reached in the Application since there is a significant difference between "reserves" and resources. Parties that may oppose this Application should comment in their responses on these issues, as well as any other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Due to the complexity of the issues raised by the Applicants, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

Pending Motions to Intervene and Comments:

On October 20, 2011, DOE received the Motion of Coalition for Responsible Siting of LNG to Intervene in this proceeding. On November 15, 2011, DOE received the Motion of Shell NA LNG LLC to Intervene and Comments on Application to Export LNG. Section 590.303(e) of DOE's regulations (10 CFR 590.303(e)) provides that answers to motions to intervene must be filed within 15 days after the motion to intervene was filed unless the Assistant Secretary for Fossil

Energy permits a later date for good cause shown. Because the two motions to intervene were submitted prior to the issuance and publication of the instant notice of application, interested persons may not have adequate notice to respond to the motions. For good cause, therefore, DOE/FE is hereby extending the due date on responses to the pending motions. Responses to those two motions must be filed no later than 4:30 p.m., eastern time, **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Public Comment Procedures

In response to this notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding that has not already done so must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) submitting comments in electronic form on the Federal eRulemaking Portal at <http://www.regulations.gov>, by following the on-line instructions and submitting such comments under FE Docket No. 11-128-LNG. DOE/FE suggests that electronic filers carefully review information provided in their submissions and include only information that is intended to be publicly disclosed; (2) e-mailing the filing to fergas@hq.doe.gov, with FE Docket No. 11-128-LNG in the title line; (3) mailing an original and three paper copies of the filing to the Office Natural Gas Regulatory Activities at the address listed

in **ADDRESSES**; or (4) hand delivering an original and three paper copies of the filing to the Office of Natural Gas Regulatory Activities at the address listed in **ADDRESSES**.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application filed by DCP is available for inspection and copying in the Office of Natural Gas Regulatory Activities docket room, Room 3E-042, 1000 Independence Avenue, S.W., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going

to the following DOE/FE Web address: <http://www.fe.doe.gov/programs/gasregulation/index.html>.

In addition, any electronic comments filed will also be available at: <http://www.regulations.gov>.

Issued in Washington, D.C., on December 2, 2011.

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Office of Fossil Energy

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